

## **INFORMATION BULLETIN #20**

### **SALES TAX**

**DECEMBER, 2002**

**(Replaces Bulletin #20 dated December 1992)**

**DISCLAIMER:** Information bulletins are intended to provide non-technical assistance to the general public. Every attempt is made to provide information that is consistent with the appropriate statutes, rules and court decisions. Any information that is inconsistent with the law, regulations, or court decisions is not binding on either the Department or the taxpayer. Therefore, information provided in this bulletin should serve only as a foundation for further investigation and study of the current law and procedures related to its subject matter.

**SUBJECT:** Casual Sales; Auctions; Garage Sales; Rummage Sales; and Similar Sales

**REFERENCES:** IC 6-2.5-4-12, 45 IAC 2.2-4-33, 45 IAC 2.2-4-34,  
45 IAC 2.2-4-35

#### **I. General Rule**

Indiana Sales Tax is not imposed upon transactions involving casual sales (except for sales of motor vehicles, watercraft or aircraft where sales tax is paid upon titling, registering, or licensing).

A "casual sale" is an isolated or occasional sale of tangible personal property whereby:

1. Such property was originally acquired by the seller for the seller's own use or consumption; and

2. The seller, in the ordinary course of his or her regularly conducted business, does not acquire such property for the purpose of resale.

## **II. Auctions**

An auction that meets all of the following conditions is a casual sale and is therefore not subject to sales tax:

1. The sale must be on premises owned or provided by the owner of the tangible personal property being sold and not the auctioneer.
2. The tangible personal property must not have been purchased for resale nor consigned by a third party for sale.

In addition, casual sales, which meet the above criteria, are not subject to the use tax and the purchaser is not required to remit use tax.

In the event that certain tangible personal property sold at a particular auction sale meets the foregoing "casual sale conditions", but other property was purchased by the owner for resale or consignment, the sale of the other property is a taxable sale and sales tax must be collected on the property that was purchased for resale or consignment.

If such a taxable sale is conducted by a licensed auctioneer, the auctioneer is a retail merchant with respect to the property being sold and is responsible for the collection of sales tax thereon.

If such a taxable sale is conducted by the owner of the property or a consignee of the property, the owner or the consignee becomes a retail merchant and must collect sales tax on the property being sold.

Before conducting a taxable sale as defined above, a licensed auctioneer; the owner of the property or the consignee must obtain a Registered Retail Merchant Certificate, "RRMC" from the Indiana Department of Revenue.

## **III. Garage Sales, Rummage Sales or Similar Sales**


A garage sale, rummage sale, or similar sale that meets all of the following conditions is a casual sale and therefore is not subject to sales tax:

1. The sale must be at the residence of the owner of the tangible personal property;
2. The sale must be conducted by the owner or the immediate family of the owner of the property being sold;

3. The tangible personal property must not have been acquired by the owner for resale; and
4. All sales or use tax due on the original acquisition of the property must have been paid by the owner.

In the event that certain tangible personal property being sold at a particular sale meets the above conditions but other property fails to meet such conditions, the sales tax must be collected on the sale of all property failing to meet the conditions.

The sale of consigned tangible personal property is a retail sale and the consignee must register as a retail merchant and must collect and remit sales tax.



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Kenneth L. Miller  
Commissioner